

# BILL ANALYSIS

Analyst: Anne Mazur  
Work Phone: 916-845-5404

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Laird, et al.	AB 14

## SUBJECT

Civil Rights Act of 2007/Discrimination/Business Expense Deduction/Discriminating Clubs

## SUMMARY

This bill would establish the Civil Rights Act of 2007, which would amend various California Codes, including the Revenue and Taxation Code (R&TC), to redefine characteristics that form the basis for prohibited discrimination.

This bill contains double-jointing language to prevent chaptering issues with SB 777 (Kuehl, 2007/2008), SB 851 (Steinberg, 2007/2008), and AB 671 (Beall, 2007/2008).

This report addresses only provisions in the bill that would impact the Franchise Tax Board (FTB).

## PURPOSE OF BILL

According to the author's staff, the purpose of this bill is to ensure that all protected classes are recognized and protected in all sections of the law.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and would be operative for taxable years beginning on or after January 1, 2008.

## ANALYSIS

### FEDERAL/STATE LAW

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Under federal law, to which California conforms, expenses incurred for meals and entertainment are generally deductible only if it is "directly related" to or "associated with" the active conduct of the taxpayer's trade or business. Such expenses are subject to other restrictions and strict substantiation requirements. Otherwise deductible amounts are subject to a 50% limitation. "Entertainment" includes any activity generally considered to be entertainment, amusement, or recreation. This includes entertaining guests at night clubs, theaters, sporting events, and at entertainment facilities such as yachts, country clubs, hunting lodges, etc. However, no deduction is allowed for club dues for membership in any business, pleasure, social, athletic, luncheon, sporting, airline, and hotel clubs.

Brian Putler, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 9/13/07
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Current state law provides that no trade or business expense deduction is allowed for expenditures made at, or payments made to, a club that restricts membership or the use of its services or facilities on the basis of age, sex, race, religion, color, ancestry, or national origin.

Under Government Code section 11135, current state law prohibits discrimination against any person in the state on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability with respect to access to benefits to any program or activity administered by the state or funded by the state.

Under the Government Code, current state law prohibits any state funds from being used for membership or for any participation involving a payment or contribution in any organization whose membership practices are discriminatory on the basis of race, creed, color, sex, religion, or national origin. Likewise, state agencies are prohibited from holding any meeting, conference, or other function in any facility that prohibits the admittance of any person on the basis of race, religious creed, color, national origin, ancestry, or sex.

### THIS BILL

This bill would establish the Civil Rights Act of 2007 (the Act). It would amend various California codes to redefine the specific characteristics that form the basis for prohibited discrimination. Specifically, the bill would amend the R&TC to redefine the characteristics that form the basis for discrimination that, if such discrimination occurred, would result in disallowance of otherwise deductible business expenses for payments made to certain clubs. Under the provisions of the bill, such prohibited discrimination would be on the basis of ancestry and “any characteristic listed or defined in Section 11135 of the Government Code” instead of separately listing “age, sex, race, religion, color, ancestry, or national origin.”

This bill would also repeal a redundant statute in the personal income tax law that disallows a deduction for expenditures made at or payments made to a club that restricts membership or the use of its services or facilities on the basis of specified characteristics.

This bill would also modify the provisions of the Government Code, described under the Federal/State Law section of this analysis, relating to membership in organizations and meeting facilities to reference “any characteristic listed or defined in Section 11135 of the Government Code” instead of separately listing characteristics forming the basis for prohibited discrimination.

### **LEGISLATIVE HISTORY**

AB 239 (Moore, Stats., 1987, Ch. 1463) enacted the personal income tax and corporation tax business deduction disallowance statutes that would be amended by this bill.

SB 572 (Garamendi, Stats. 1987, Ch. 1139) enacted the California Bank and Corporation Tax Conformity Act of 1987 and made other law changes including adding the redundant personal income tax statute that would be repealed by this bill.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

## **ECONOMIC IMPACT**

This bill would not impact personal income tax or corporate income tax revenues.

## **VOTES**

Assembly Floor – Ayes: 46, Noes: 29

Senate Floor – Ayes: 23, Noes: 13

Concurrence – Ayes: 45, Noes: 26

## **LEGISLATIVE STAFF CONTACT**

Anne Mazur  
Franchise Tax Board  
(916) 845-5404  
[anne.mazur@ftb.ca.gov](mailto:anne.mazur@ftb.ca.gov)

Brian Putler  
Franchise Tax Board  
(916) 845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)